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ATD LEVEL I

DCM LEVEL I

COMMERCIAL LAW

MONDAY: 27 November 2017.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) (i) Define the term "morality". (4 marks)
- (ii) Explain three similarities between "law" and "morality". (6 marks)
- (b) In relation to the general rules of international law:
- (i) Explain the meaning of the term "treaty". (4 marks)
- (ii) Describe three rules that govern international treaties. (6 marks)

(Total: 20 marks)

QUESTION TWO

- (a) In the context of the law of torts:
- (i) Describe three circumstances in which a person employing an independent contractor might still be liable for that person's torts. (6 marks)
- (ii) Distinguish between "libel" and "slander" as used in the law of defamation. (4 marks)
- (b) Outline four duties of the seller under the DDP (Delivered Duty Paid) international contract of sale of goods. (4 marks)
- (c) Explain three differences between "lien" and "stoppage in transitu" as used in the Sale of Goods Act. (6 marks)

(Total: 20 marks)

QUESTION THREE

- (a) With reference to the doctrine of non-disclosure in contracts of insurance:
- (i) Explain three matters which need not be disclosed to the insurer by the insured. (6 marks)
- (ii) Outline three consequences of non-disclosure of material facts by the insured. (6 marks)

- (b) The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined by set rules.

With reference to the above statement, discuss four rules that determine the interests of partners. (8 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Summarise four obligations of the hirer under a hire purchase contract. (8 marks)
- (b) In the context of the law of agency:
 - (i) Identify three ways through which an agent's authority might be ascertained. (6 marks)
 - (ii) Describe four types of authority that an agent might possess. (6 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) All courts are tribunals but not all tribunals are courts.

In light of the above statement, explain five differences between "administrative tribunals" and "courts of law". (10 marks)
- (b) (i) Outline four ways through which copyrights and related rights might be infringed. (4 marks)
- (ii) Describe three characteristics of easements. (6 marks)

(Total: 20 marks)

QUESTION SIX

- (a) With reference to the law of negotiable instruments:
 - (i) State four circumstances in which a banker has no authority to honour a cheque drawn on him. (4 marks)
 - (ii) Explain three duties of a holder of a bill of exchange. (6 marks)
- (b) Describe five circumstances under which the court has power to appoint an arbitrator in arbitration proceedings. (10 marks)

(Total: 20 marks)

QUESTION SEVEN

- (a) Highlight six salient features of the contract of indemnity. (6 marks)
- (b) Outline the liabilities of joint and several guarantors under the law of guarantee. (4 marks)
- (c) Identify two circumstances when an order of prohibition might be issued against an administrative body. (4 marks)
- (d) Explain three conditions that African customary law must fulfill in order to be recognised as a source of law. (6 marks)

(Total: 20 marks)

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